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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,993	07/17/2003	Samuel Wayne Buff	BUFSAM P01AUS	9992

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EXAMINER

GORDON, STEPHEN T

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/621,993

Applicant(s)

BUFF, SAMUEL WAYNE

Examiner

Stephen Gordon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 9, 11, 12, 14 and 16-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-8, 10, 13, 15, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 2 and 3 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. Claims 9, 11-12, 14, and 16-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention. Applicant timely traversed the restriction (election) requirement in the reply filed on 7-9-04. Applicant should note, previously withdrawn claim 15 has been rejoined with the application to expedite prosecution.

2. Claim 7 is objected to because of the following informalities: the term "adjustment" in each of lines 3 and 5 should be ~~adjustable~~ at both occurrences for consistency of terminology (i.e. 2 places total). Additionally, "Audience" at the end of the claim is apparently inadvertently included in error and should be deleted. Appropriate correction is required.

3. Claims 5, 13, 15, and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 5 as amended, the claim is somewhat confusing and apparently not consistent with the disclosure. Specifically, in lines 2 and 3 the head is recited as T-shaped.

Doesn't the head make up only the bottom of the "T"? As best understood, --the adjustable member—could be inserted before "has" of line 3 to correct the claim in this regard.

While a complete action on the merits for withdrawn claim 12 has not been included herein, in an effort to expedite prosecution it is noted that the recited repeating notched

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pattern of both lines 2 and 3 apparently constitute double inclusions of the newly recited repeating patterns of lines 11-13 of the amended base claim 1.

Re claim 13, the recited repeating sawtooth pattern of both lines 2 and 3 apparently constitute double inclusions of the newly recited repeating patterns of lines 11-13 of the amended base claim 1.

While a complete action on the merits for withdrawn claim 14 has not been included herein, in an effort to expedite prosecution it is noted that the recited repeating wave pattern of both lines 2 and 3 apparently constitute double inclusions of the newly recited repeating patterns of lines 11-13 of the amended base claim 1.

Re claim 15, the recited repeating notched pattern of both lines 2 and 3 apparently constitute double inclusions of the newly recited repeating patterns of lines 11-13 of the amended base claim 1.

While a complete action on the merits for withdrawn claim 17 has not been included herein, in an effort to expedite prosecution it is noted that “the access opening” of line 3 lacks clear antecedent basis and could be written as –an access opening—for clarity as best understood. Additionally, “the head” on line 4 lacks clear antecedent basis and could be written as –the head of said support strut—as best understood for clarity.

Finally, line 4 is somewhat confusing, and –said—could be inserted before “support” to clarify the line in this regard as best understood.

While a complete action on the merits for withdrawn claim 18 has not been included herein, in an effort to expedite prosecution it is noted that line 3 is somewhat confusing,

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and "a central" could be replaced with ~~—said—~~ to clarify the line in this regard as best understood. Finally, "the support strut" lacks antecedent basis.

Re claim 19, line 13 is somewhat confusing, and ~~—of said one of the base members—~~ could be inserted after "slot" of the line to clarify the claim in this regard as best understood.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 4, 6-8, 10, and 19-20, as best understood and as newly amended, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sichak in view of Tayar. Sichak teaches a cargo securing system including a base member 14,18+, a slot 8, a recess (@ 26), an adjustable member 10, an enlarged head 22, a leg 24 slidable as broadly claimed, a rearwardly facing surface (of 18) with a first interlocking structure (20), and a mating second interlocking structure 38 providing for retention in a desired position as broadly claimed. The first and second interlocking structures are deemed to define repeating patterns as broadly claimed.

Re claims 1, 19, and 20, Sichak teaches that the base member 14,18+ is attached via welding, (note weld fillets in figure 3) and fails to specifically teach attachment holes as such.

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The use of attachment holes for attaching a tie anchor rail system is notoriously well known in the art as evidenced by Tayar – note base rail attaching holes (20a,b) for receiving threaded fasteners in figure 1 etc.

In order to allow easier removal of the base rail for repair/replacement in the event that the rail is damaged, it would have been obvious to one of ordinary skill in the art to replace the welded base rail 14+ securement of Sichak with threaded fasteners and accompanying attachment holes in view of the teachings of Tayar.

Re claim 7, the second interlocking structure is located as broadly claimed.

Re claim 10, see eyelet in 32.

Re claim 19, Sichak teaches the use of plural base members 14,18+ and adjustable members 10 used with straps.

6. Claims 5, 13, and 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

7. Claims 2 and 3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Applicant's arguments with respect to the rejected claims have been considered but are moot in view of the new ground(s) of rejection.

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9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (703) 308-2556. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen Gordon
Primary Examiner
Art Unit 3612

stg